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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,774

06/20/2003

Bryan Keith Feller

9281

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27752 7590 11/18/2009
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
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EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

11/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/600,774	Applicant(s) FELLER ET AL.	
	Examiner MELANIE J. HAND	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,10,11,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,10,11,15 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/18/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2009 has been entered.

Allowable Subject Matter

2. The indicated allowability of claims 1, 4-6, 10, 11, 15 and 16 is withdrawn in view of the newly discovered reference(s) to Olsen. Rejections based on the newly cited reference(s) follow.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on August 18, 2009 was filed after the mailing date of the Notice of Allowance on July 27, 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-6, 10, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen et al (U.S. Patent No. 5,591,150).

With respect to **claim 1**: Olsen discloses an absorbent article comprising the following: a. a fluid permeable facing layer in the form of topsheet 38 necessarily having a first elastic modulus, wherein the facing layer comprises a topsheet and a secondary topsheet disclosed by reference to U.S. Patent No. 4,342,314 to Radel et al ('314, Fig. 12, Col. 18, lines 38-55); b. an absorbent core 42 joined to the facing layer, the absorbent core necessarily having a second elastic modulus; c. wherein at equal strain from about 1% to about 5% the first elastic modulus is greater than the second elastic modulus and wherein the facing layer is joined to the absorbent core at substantially the entirety of their respective interfacial surfaces; and d. a fluid impermeable backsheet 40 joined to the facing layer. Examiner's position is based upon the figures disclosed by Olsen in which the absorbent core 42 attached to the topsheet 38 is able to bend to a greater degree and thus its modulus is less than the modulus of the topsheet which requires greater force than the force necessary to apply to the core to achieve equal strain to that of the core.

With respect to **claim 4**: The density of the absorbent core disclosed by Olsen is 0.13 g/cc, which satisfies the claimed range of between about 0.050 g/cm³ and about 0.15 g/cm³. (Col. 17, lines 30-35)

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With respect to **claim 5**: The facing layer 38 disclosed by Olsen has a caliper and the absorbent core 42 has a second caliper, and wherein the ratio between the facing layer caliper 38 and the absorbent core caliper is from about 1:3 to about 1:20. Examiner's position is based upon Olsen disclosure that the absorbent core caliper is 1.2 mm and total napkin caliper is less than about 3 mm. Thus, the topsheet maximum possible caliper is 1.8 mm. Thus the ratio of facing layer caliper to absorbent caliper is between 0 and 1.5:1, which overlaps the claimed range.

With respect to **claim 6**: The absorbent article 20 disclosed by Olsen is a catamenial device, namely a sanitary napkin.

With respect to **claim 10**: The topsheet 38 disclosed by Olsen by reference to Radel is an apertured, formed film topsheet. ('314, Fig. 12, Col. 18, lines 38-55)

With respect to **claim 11**: The secondary topsheet (lamina 153) disclosed by Olsen by reference to Radel is a nonwoven web.

With respect to **claim 15**: The article disclosed by Olsen further comprises a pair of deep-embossed channels on either side of channel 80A (Fig. 16A), specifically embossing lines which by their nature form an indented portion that defines a channel, the channels necessarily defining an effective width inasmuch as they are two-dimensional. The term "deep-embossed" is not defined in such a way in the disclosure that would distinguish from embossing. The claim is interpreted in light of the specification and therefore it is examiner's position that the embossed portions of the article of Olsen meet the limitation of deep-embossed channels.

Allowable Subject Matter

6. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Since Olsen is the closest prior art of record and Olsen does not disclose or suggest any width for any of the embossed channels, one of ordinary skill in the art would not be motivated to modify the article of Olsen such that the effective width of the embossed portions is within the claimed range.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Melanie J Hand/
Primary Examiner, Art Unit 3761